

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Rosalie R. Herberger, a Special Agent (S/A) with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), being first duly sworn, hereby depose and state as follows:

I. Introduction

1. I have been employed as a Special Agent (S/A) with ATF since January 2016. I am currently assigned to the Columbia, South Carolina ATF Field Office. I have had extensive training at the Federal Law Enforcement Training Center in the Criminal Investigator Training Program and ATF S/A Basic Training. My primary duties include investigating violent crime and firearm-related crime in the Midlands region of South Carolina. I have participated in investigations of state and federal firearms violations, illegal narcotics trafficking, armed drug traffickers, criminal enterprises, and criminal street gangs. Accordingly, I am thoroughly familiar with the investigative techniques used in these investigations, such as the use of cooperating witnesses and confidential informants, surveillance, search and seizure warrants, and the interception of communications. In addition, based on my experience, I know that individuals engaged in the fraudulent procurement of firearms and the unlicensed dealing of firearms often maintain evidence of firearm procurement and sales on personal communication platforms, including e-mail accounts. This is particularly true where those individuals use the internet to facilitate and further their criminal conduct.
2. As a result of my training and experience as an ATF S/A, I am familiar with federal criminal firearm laws and federal fraud laws, and I know that the conduct described in this Affidavit violate the federal statutes listed below.
3. Since this Affidavit is submitted for the sole purpose of establishing probable cause to support the issuance of a Criminal Complaint and Arrest Warrant, I have not included each and every fact known by the government concerning criminal activities committed by the defendant. I have set forth only those facts that I believe are necessary to establish probable cause to believe that **Edward Daniel KIMPTON, Jr. (KIMPTON)** violated the statutes referenced below.

II. Federal Criminal Offenses

4. I respectfully submit that there is probable cause to believe KIMPTON has committed (1) **wire fraud** in violation of 18 U.S.C. §§ 1341 and 1343; (2) **mail fraud** in violation of 18 U.S.C. §§ 1342 and 1343; (3) **possession of a machine gun** in violation of 18 U.S.C. §§ 922(o), 921(a)(23), and 26 U.S.C. § 5845. I am respectfully asking the Court to find probable cause that each of the above statutes have been violated based on the following conduct:

III. Summary of Investigation

5. On October 19, 2018, ATF received a report from a confidential source that flagged KIMPTON's PayPal transactions as suspicious. ATF opened an investigation and has been assisted in the same by the U.S. Secret Service (USSS) and numerous state and local agencies. Evidence indicates that KIMPTON has engaged in a sophisticated fraud scheme in which he has fraudulently obtained a high quantity of high value firearms, ammunition, firearm accessories, and tactical equipment.

6. To carry out the scheme, KIMPTON purports to purchase firearms, ammunition, firearm scopes, tactical gear, and other goods from online sellers, including individual sellers and retailers, often using false names. KIMPTON agrees to purchase the items, including semi-automatic firearms and tactical firearms, orders the items from the sellers, pays for the items using electronic payment platforms, and then contests the sale by alleging that he never received the item despite actually taking possession of the same. The sellers are then left without their property or payment, and KIMPTON retains both the property and the fraudulently reverted funds.
7. Confirmed and likely victims are located in Arizona, California, Florida, Washington, Indiana, Tennessee, and South Carolina. KIMPTON has used Federal Firearms License-holders and shipment locations at least in Richland, Lexington, York, Saluda, and Kershaw Counties in SC, and Mecklenburg County, NC. The scheme began at least in June 2018 and appears to have continued through the execution of federal search warrants.
8. On April 28, 2020, agents with the ATF, USSS, and state and local agencies executed federal search warrants on three locations associated with KIMPTON in Columbia, SC. During the execution of those search warrants, agents recovered a total of 90 firearms, approximately 23,763 rounds of ammunition, body armor, tactical helmets, tactical clothing, firearm scopes, gas masks, gas mask filters, numerous loaded magazines, bump stocks, and tactical firearm accessories, to include the following:
 - a. At KIMPTON's primary residence, approximately 47 firearms, approximately 4,503 rounds of ammunition, and two bump stocks;
 - b. At KIMPTON's storage unit, approximately 43 firearms, approximately 19,260 rounds of ammunition, three bump stocks, and the tactical equipment described above;
 - c. 6 of the 7 firearms defrauded from victims as described below.

IV. Wire Fraud and Mail Fraud Violations

9. While I have detailed 4 frauds to provide probable cause for the purpose of the issuance of a Criminal Complaint, KIMPTON has been implicated in and remains under investigation for numerous additional frauds that follow similar patterns involving firearms and ammunition.

August 2018 fraud against victim [REDACTED] D [REDACTED] O [REDACTED]

10. On August 10, 2018, KIMPTON ordered 4 semi-automatic rifles from [REDACTED] D [REDACTED] O [REDACTED] for \$9,990.01 using his [REDACTED]@gmail.com PayPal account: (1) an IWI model Tavor (serial # TOOO3930); (2) a POF model P308 (serial # 13BB-10125); (3) an LWRC model REPR, (serial # 76-00206); and (4) an F&N model Scar 175 (serial # 318SNHC16826CMDT).

11. O [REDACTED] shipped those firearms addressed to KIMPTON at The Top Gun Transfer FFL located in Saluda, SC. The FFL confirmed to ATF and KIMPTON admitted to ATF that KIMPTON took possession of the 4 rifles and then brought them inside his residence.
12. However, on October 5, 2018, KIMPTON field a fraudulent request with PayPal alleging that he never took possession of the rifles. KIMPTON's fraudulent request to revert funds required his use of their electronic platform, including the sending and receiving of e-mails. As a result, PayPal reverted \$9,990.01 back to KIMPTON's PayPal account, which is funded by a Bank of America bank account registered to KIMPTON.
13. On April 28, 2020, during the execution of federal search warrant on KIMPTON's storage unit, agents recovered at least three of the four firearms KIMPTON defrauded from O [REDACTED]. Below are photos of the same/similar make/model firearms defrauded from O [REDACTED]:



February 2019 fraud against victim R [REDACTED] F [REDACTED]

14. On February 6, 2019, "Danielle Kim," a false name I know KIMPTON to use to further this scheme, ordered a Spas Caliber 12 gauge shotgun (serial # AA02499) from R [REDACTED] F [REDACTED] for \$1,799. "Kim" contacted F [REDACTED] through ArmsList.com, an online firearms marketplace. On February 6, 2019, F [REDACTED] received a payment from "Kim's" PayPal account, which I know to be associated with KIMPTON.
15. F [REDACTED] shipped the firearm to Columbia Arms, an FFL located in Lexington, SC. While the package was in route, it was diverted and delivered to [REDACTED], Lexington, SC.
16. After the firearm was delivered, "Kim" cancelled the PayPal transaction, alleging "Kim" never took possession of the firearm. PayPal reverted the \$1,799 to "Kim." On February 28, 2019,

American Express show a supplemental account associated with KIMPTON received a \$1,799 credit, which is the same amount “Kim” defrauded F [REDACTED] of.

17. On April 28, 2020, during the execution of federal search warrant on KIMPTON’s storage unit, agents recovered the firearm defrauded from F [REDACTED], as shown below, and shipping labels to [REDACTED] Lexington, SC.



March 2019 fraud against victim J [REDACTED] V [REDACTED]

18. On March 5, 2019, “Danielle Kim” ordered a Venith model 25RS rifle from J [REDACTED] V [REDACTED] for \$2,606.87 through ArmsList.com. At “Kim’s” direction, V [REDACTED] shipped the firearm to Columbia Arms, an FFL in Lexington, SC, and addressed the package to “Daniel Kim.” “Kim” used a cell phone to facilitate this fraud by text messaging with the victim.
19. While the package was in route, the firearm was diverted to a Walgreens at 423 West Main Street, Lexington, SC, which is a FedEx drop ship location. Surveillance video from Walgreens shows KIMPTON picking up the package and signing for it as “Ed Kim.”
20. On March 6, 2019, a fraudulent request was then lodged with PayPal, reporting that “Kim” never took possession of the firearm, and PayPal then reverted \$2,606.87 back PayPal account I know to be associated with KIMPTON.
21. On April 28, 2020, during the execution of federal search warrant on KIMPTON’s residence, agents recovered the firearm KIMPTON defrauded from V [REDACTED], as shown below:



September 2019 fraud against victim R [REDACTED] H [REDACTED]

22. On October 13, 2019, “David Ivory” ordered a Fostech model Origin 12 (serial # 0002448) from R [REDACTED] H [REDACTED] for \$3,858.75. The firearm was purchased using “Danielle Kim’s” PayPal account, which I know to be associated with KIMPTON.

23. From September 17 to 19, 2019, “Ivory” repeatedly e-mailed H [REDACTED] to facilitate the fraud, including sending messages regarding PayPal, the tactical shotgun, photos of the firearm, contact numbers, a breakdown of the \$3,858.75 owed, the PayPal account to be used, and a change in the shipping address from an FFL in Columbia to one in Rock Hill, SC.
24. H [REDACTED] shipped the firearm to Spectrum Enterprises located in Rock Hill, SC, a location KIMPTON appeared to have searched for on the Internet on October 4, 2019.
25. While the package was in route, it was diverted to a Walmart at 8180 S. Tyron Street, Charlotte, NC. Surveillance shows an individual taking possession of the firearm. A witness has told ATF that the individual did so at KIMPTON’s direction, and that KIMPTON provided things of value to that individual in exchange. After that individual took possession of the firearm, “Kim” filed a claim with PayPal alleging he never took possession of the package, and PayPal reverted the \$3,858.75 from H [REDACTED] back to “Kim.”
26. On April 28, 2020, during the execution of federal search warrant on KIMPTON’s residence, agents recovered the firearm KIMPTON defrauded from H [REDACTED], as shown below.



V. Possession of Machine Gun Violations

27. On April 28, 2020, during the execution of a federal search warrant on KIMPTON’s residence and storage unit, agents recovered approximately 5 bump stocks. They were recovered in the following locations:
- a. Three bump stocks were recovered from KIMPTON’s storage unit;
 - b. One bump stock was recovered from KIMPTON’s bedroom; and
 - c. One bump stock was recovered from the garage of KIMPTON’s house in package with KIMPTON’s name on it.
28. I know that 18 U.S.C. § 922(o) prohibits the possession of a “machine gun,” which defined for the purpose of the statute in the National Firearms Act (NFA) in 26 U.S.C. 5845(b). *See* 18 U.S.C. 921(a)(23). That section provides that for the purposes of this statute, a “machine gun” is:

“...any weapon which shoots, is deigned to shoot, or can readily be restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. **The term shall also include any part designed and intended solely and**

exclusively, or combination of parts designed and intended, of use in converting a weapon into a machinegun.”

29. I know that the definition section in bold provides that bump stocks fall within the definition of “machine gun” because they allow a shooter of a semiautomatic firearm to initiate a continuous firing cycle with the single pull of a trigger. I have found evidence that KIMPTON appears to have credit card charges in 2018 from Slide Fire, a manufacturer of bump stocks.
30. None of the five machine guns listed above bear a serial number, and are therefore unregistered, as required by 26 U.S.C. § 5842. Accordingly, KIMPTON possessed unregistered machineguns in violation of the NFA.
31. I also have found evidence that KIMPTON had an interest in and knowledge of bump stocks, machine guns, federal statutes governing the same, and on numerous occasions that KIMPTON searched the Internet on how to convert semi-automatic firearms to fully automatic firearms.
32. From March 11, 2018 through March 23, 2020, KIMPTON appears to have searched the Internet 66 times for related terms including “nfa machine gun registry,” “nfa machine gun registry trust,” 11 times for “bump stocks,” and for “bump stock law suit.” This includes approximately 40 times where KIMPTON searched fully automatic firearms, parts to convert a semi-automatic firearm to an automatic firearm, or automatic firearm conversion kits.
33. In addition, during that time period KIMPTON appears to have searched the Internet three times for the firearms used in the Santa Fe high school shooting, one time for the Santa Fe high school shooter, and two times for “gas mask shooting.” Agents recovered a gas mask and gas mask filters during the execution of search warrants on KIMPTON’s residence, as well as body armor, a tactical helmet, and tactical clothing. KIMPTON also appears to have visited webpages with content regarding the mass shooters in Charleston, SC and Florence, SC.

VI. Conclusion

34. As for KIMPTON’s violations of federal **mail fraud** statutes, I submit that there is probable cause to believe that on or about the dates listed above, KIMPTON (1) devised a scheme to defraud or obtain property by means of false or fraudulent pretenses or representations that were material, and that (2) for the purpose of executing the scheme, KIMPTON caused property to be sent or delivered by an interstate shipping provider, that he took or received the same property, and/or that he caused the same property to be delivered by an interstate shipping provider in violation of 18 U.S.C. §§ 1341 and 1343.
35. As for KIMPTON’s violations of federal **wire fraud** statutes, I submit that there is probable cause to believe that on or about the dates listed above, KIMPTON (1) devised a scheme to defraud or obtain money or property by false or fraudulent pretenses or representations that were material; and that (2) for the purpose of executing the scheme, KIMPTON transmitted or caused to be transmitted by means of wire in interstate commerce, specifically via the internet and by text message, writings, signs, signals, pictures, or sounds in violation of 18 U.S.C. §§ 1342 and 1343

36. As for KIMPTON's violations of the federal **possession of machine gun** statute, I submit that there is probable cause to believe that on or about the dates listed above, KIMPTON (1) possessed a machinegun as defined in 26 U.S.C. 5845; and that (2) that the defendant did so knowingly.
37. In consideration of the foregoing, I respectfully request that this Court issue a Criminal Complaint and Arrest Warrant for Edward Daniel KIMPTON Jr.

Assistant United States Attorney Elliott B. Daniels has reviewed this affidavit.

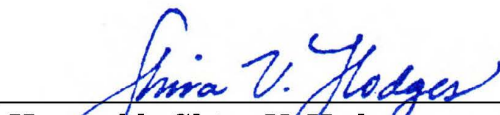
I swear, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge.



Rosalie Herberger
Special Agent
The Bureau of Alcohol, Tobacco, Firearms,
and Explosives (ATF)

Subscribed and sworn to before me on April, 30, 2020

This affidavit was sworn to by the affiant, who attested to its contents pursuant to Fed. R. Crim. P. 4.1(b)(2)(A) by telephone after a document was transmitted by email pursuant to Fed. R. Crim. P. 4.1.



Honorable Shiva V. Hodges
United States Magistrate Judge

